

Appl. No. 10/530,634

Attorney Docket No. 10808-231

**II. Remarks**

Reconsideration and re-examination of this application in view of the above amendments and the following remarks is herein respectfully requested.

After entering this amendment, claims 5-9 and 22-24 remain pending.

***Rejections Under 35 U.S.C. § 112***

Claims 23 and 24 were rejected under 35 U.S.C. §112. Specifically, claims 23 and 24 recite the limitation "spacer." Claims 23 and 24 have been amended to depend from claim 22, thereby, providing proper antecedent basis.

***Claim Rejections - 35 U.S.C. § 102***

Claims 5, 6, and 9 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6399973 B1, to Roberds (Roberds).

Claim 9 recites that the depression sidewall insulation layer extends below and overlaps with the gate dielectric. Roberds does not teach this element. Claims 5 and 6 depend from claim 9 and are, therefore, patentable for at least the same reasons as given above in support of claim 9.

***Claim Rejections - 35 U.S.C. §103.***

Claims 7 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Roberds.

Appl. No. 10/530,634

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Claim 22 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Roberds in view of U.S. Publication No. 2003/0080361 A1 to Murthy et al. ("Murthy '361").

Claims 23-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Roberds in view of U.S. Publication No. 2002/0190284 to Murthy et al. (Murthy '284).

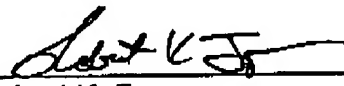
Claims 7-8 and 22-24 depend from claim 9 and are, therefore, patentable for at least the same reasons as given above in support of claim 9.

#### *Conclusion*

In view of the above amendments and remarks, it is respectfully submitted that the present form of the claims are patentably distinguishable over the art of record and that this application is now in condition for allowance. Such action is requested.

Respectfully submitted by,

Dated: December 7, 2007

  
Robert K. Fergan  
Reg. No.: 51,674  
Attorney for Applicants